

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BENEDICT MCGILL

VS.

NO. 2:18-CV-02635

DAVON L. CARROLL AND ESHAI CORP. D/B/A
COURIER DISTRIBUTION SYSTEMS

ORDER

AND NOW, this _____ day of _____ 2019, upon consideration of Defendants' Motion to Compel the IME of Plaintiff, Benedict McGill, it is hereby **ORDERED** and **DECREED** that Plaintiff, Benedict McGill, shall appear for an IME at the offices of defense medical expert Dr. Laurence Wolf within twenty (20) days of the date of this Order.

BY THE COURT:

J.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BENEDICT MCGILL

VS.

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COURIER DISTRIBUTION SYSTEMS

NO. 2:18-CV-02635

**DEFENDANTS' MOTION TO COMPEL INDEPENDENT MEDICAL EXAMINATION OF
PLAINTIFF**

Defendants, Davon L. Carroll and Eshai Corp. d/b/a Courier Distribution Systems, by and through their attorneys, Marks, O'Neill, O'Brien, Doherty & Kelly, P.C., hereby move this Honorable Court to enter an Order in the form attached, and in support thereof, state as follows:

1. Plaintiff, Benedict McGill, alleges various injuries as a result of the accident which is the subject of the above-captioned lawsuit.
2. Defendants intend to have Plaintiff examined by defense medical expert Dr. Laurence Wolf.
3. Discovery in the above-captioned matter will end on March 4, 2019.
6. Due to the discovery deadline in this matter, this Motion was necessary in order to ensure Plaintiff's attendance at an independent medical examination.
10. Defendants are entitled to an independent medical examination of Plaintiff pursuant to F.R.C.P. 35(a), which states in part: "When the physical condition of a person is in controversy, the Court may order the party to submit to a physical examination ... The order may be made only upon motion for good cause shown and notice to the person to be examined and to all parties . "

WHEREFORE, Defendants seek an Order of the Court compelling Plaintiff, Benedict McGill, to appear for an IME at the offices of defense medical expert Dr. Laurence Wolf within twenty (20) days.

Respectfully submitted,

**MARKS, O'NEILL, O'BRIEN,
DOHERTY & KELLY, P.C.**

BY: /s/ Benjamin J. Tursi
BENJAMIN J. TURSI, ESQUIRE
Attorney ID #206999
Attorney for Defendants
1617 John F. Kennedy Boulevard, Ste. 1010
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215-564-6688

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NO. 2:18-CV-02635

**MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANTS' MOTION TO COMPEL
PLAINTIFF'S IME**

Plaintiff, Benedict McGill, alleges various injuries as a result of the accident which is the subject of the above-captioned lawsuit. Defendants are entitled to an independent medical examination of Plaintiff pursuant to F.R.C.P. 35, which states in part: “[W]hen the mental or physical condition of a party... is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a suitably licensed or certified examiner.”

WHEREFORE, Defendants respectfully request that this Honorable Court enter the attached Order requiring Plaintiff to appear for an IME at the offices of defense medical expert Dr. Laurence Wolf within twenty (20) days.

Respectfully submitted,

**MARKS, O'NEILL, O'BRIEN,
DOHERTY & KELLY, P.C.**

BY: /s/ Benjamin J. Tursi
BENJAMIN J. TURSI, ESQUIRE
Attorney ID #206999
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CERTIFICATE OF SERVICE

I, Benjamin J. Tursi, Esquire, hereby state that on this date I have caused to be served a true and correct copy of the foregoing Motion to Compel Plaintiff's Independent Medical Examination to be served by electronic filing and/or first class mail, postage prepaid upon all counsel of record.

**MARKS, O'NEILL, O'BRIEN,
DOHERTY & KELLY, P.C.**

BY: /s/ Benjamin J. Tursi
BENJAMIN J. TURSI, ESQUIRE
Attorney for Defendants
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Date: February 28, 2019